

MINUTES OF A REGULAR MEETING OF THE BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LONG BEACH, HELD IN THE BOARD ROOM OF THE HARBOR DEPARTMENT ADMINISTRATION BUILDING AT 925 HARBOR PLAZA, LONG BEACH, CALIFORNIA, ON MONDAY, JUNE 20, 2005, AT 1 P.M.

Present:	Commissioners:	Hancock, Cordero, Hankla, Topsy-Elvord, Calhoun
Absent:	"	None

Also present:

R. D. Steinke	Executive Director
S. B. Rubin	Managing Director
T. Teofilo	Managing Director
G. T. Hein	Executive Officer to the Board
D. A. Thiessen	Chief Harbor Engineer
J. A. Warszawski	Administration Division Analyst
H. C. Morris	Director of Communications
M. J. Slavin	Chief Financial Officer
D. L. Albrecht	Director of Information Management
W. D. Bower	Acting Director of Maintenance
R. G. Kanter	Director of Planning
K. J. McDermott	Director of Properties
C. Perrone	Director of Security
D. B. Snyder	Director of Trade & Maritime Services
C. A. Kemp	Director of Community Relations
D. T. Holzhaus	Principal Deputy City Attorney

PRESIDENT CALHOUN PRESIDED AS CHAIRMAN.

APPROVAL OF MINUTES.

Upon motion by Commissioner Topsy-Elvord, seconded by Commissioner Hankla and unanimously carried, the minutes of the regular meeting of June 6, 2005, were declared read and approved as read.

Commissioner Cordero left the meeting.

PUBLIC COMMENTS.

Dr. Williard Zahn addressed the Board and spoke in favor of the breakwater.

CONSENT CALENDAR – ITEMS NOS. 1-8.

1. MS NAVARRO ENGINEERING - ACCEPTANCE OF WORK UNDER SPECIFICATION NO. HD-S2114.

Communication from D. A. Thiessen, Chief Harbor Engineer, dated June 15, 2005, advising that MS Navarro Engineering has satisfactorily completed, as of April 1, 2005, the terminal security infrastructure at the Pier T Marine Terminal, as described in Specification No. HD-S2114 and recommending that said work be accepted as complete as of that date, was presented to the Board. The recommendation was approved by the Executive Director.

2. CWO NO. 1490, SUPPLEMENT NO. 32 – ANAHEIM STREET GRADE SEPARATION – APPROVED.

Communication from D. A. Thiessen, Chief Harbor Engineer, dated June 15, 2005, requesting approval of CWO No. 1490, Supplement No. 32, for the miscellaneous costs for the Anaheim Street Grade separation, in the amount of \$2,883,681, was presented to the Board. The request was approved by the Executive Director.

3. CWO NO. 5002 - EXPENDITURES APPROVED AND PROJECT CLOSED TO ALL FUTURE CHARGES.

Communication from Robert Kanter, Director of Planning, dated June 7, 2005, submitting the following project for closing action:

		<u>BHC Approval</u>	<u>Expenditures</u>
CWO No. 5002	Water Quality Monitoring	\$ 150,000	\$ 61,329

and requesting that the expenditure made to said project be approved and that it be closed to all future charges, was presented to the Board. The request was approved by the Executive Director.

4. LEVEL I HARBOR DEVELOPMENT PERMIT – RECEIVED AND FILED.

Communication from Robert Kanter, Director of Planning, dated June 15, 2005, requesting that the following Level I Harbor Development Permit be received and filed:

HDP #05-043	THUMS Long Beach Company – Pipeline Replacement
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was presented to the Board. The request was approved by the Executive Director.

5. LEVEL I HARBOR DEVELOPMENT PERMITS – RECEIVED AND FILED.

Communication from Robert Kanter, Director of Planning, dated June 15, 2005, requesting that the following Level I Harbor Development Permits be received and filed:

HDP #05-022	Port of Long Beach – Pier A East Geotechnical Investigation
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HDP #05-037	ARCO Terminal Services Corporation – Anode Installation
HDP #05-040	ARCO Terminal Services Corporation – Test Lead Installation
HDP #05-044	L.G. Everist – Building Addition

was presented to the Board. The request was approved by the Executive Director.

6. ENVIRON – DOCUMENT NO. HD-6945 – MWH – DOCUMENT NO. HD-6946 – SAIC – DOCUMENT NO. HD-6947 – EXECUTIVE DIRECTOR AUTHORIZED TO EXECUTE CONTRACTS FOR AIR QUALITY PROFESSIONAL SERVICES.

Communication from Robert Kanter, Director of Planning, dated June 13, 2005, recommending authorization of Contracts with ENVIRON, MWH, and SAIC to conduct a variety of air quality professional services, each in the amount of \$250,000, and for a period of four years, was presented to the Board. The recommendation was approved by the Executive Director.

7. MWH - EXECUTIVE DIRECTOR AUTHORIZED TO EXECUTE FIRST AMENDMENT TO CONTRACT FOR CADD MANAGER SERVICES – DOCUMENT NO. HD-6847A.

Communication from Douglas Albrecht, Director of Information Management, dated June 14, 2005, requesting approval of an amendment to Contract with MWH for Computer Aided Design and Drafting Manager services for a rate increase of \$128.00 per hour, and extending the contract to May 22, 2006, was presented to the Board. The request was approved by the Executive Director.

8. BASHIR HASSAN – APPOINTMENT.

Communication from Toni K. Whitesell, Director of Administration, dated June 14, 2005, requesting approval of the appointment of Bashir Hassan to the position of Administrative Intern-NC, at Range/Step H28/1, effective June 21, 2005, was presented to the Board. The request was approved by the Executive Director.

Commissioner Hancock moved, seconded by Commissioner Hankla that the communications be received and filed and that Items Nos. 1-8 be approved as recommended. Carried by the following vote:

AYES:	Comms:	Hancock,Hankla,Topsy-Elvord,Calhoun
NOES:	“	None
ABSENT:	“	Cordero

Commissioner Cordero returned to the meeting.

REGULAR AGENDA.

9. PACIFIC TOWBOAT & SALVAGE COMPANY DBA FOSS MARITIME COMPANY – EXECUTIVE DIRECTOR AUTHORIZED TO EXECUTE REVOCABLE PERMIT FOR USE OF A PORTION OF BERTH F202 – DOCUMENT NO. HD-6948 – RESOLUTION NO. HD-2259 - ADOPTED.

Communication from Kathryn McDermott, Director of Properties, dated June 14, 2005, recommending approval of a Revocable Permit with Pacific Towboat & Salvage Company dba Foss Maritime Company, for the use of a portion of Berth F202, was presented to the Board together with the authorizing resolution therefore. The recommendation was approved by the Executive Director.

Commissioner Topsy-Elvord moved, seconded by Commissioner Hancock that the communication be received and filed and that the resolution entitled “A RESOLUTION OF THE BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LONG BEACH AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A REVOCABLE PERMIT BETWEEN THE CITY OF LONG BEACH, ACTING BY AND THROUGH ITS BOARD OF HARBOR COMMISSIONERS, AND PACIFIC TOWBOAT & SALVAGE DOING BUSINESS AS FOSS MARITIME COMPANY FOR THE USE OF CERTAIN PREMISES IN THE HARBOR DISTRICT, AND MAKING A DETERMINATION RELATING THERETO,” be declared read and adopted as read. Carried by the following vote:

AYES:	Commrs:	Hancock,Cordero,Hankla,Topsy-Elvord, Calhoun
NOES:	“	None
ABSENT:	“	None

At 3:15 p.m., President Calhoun recessed the Board meeting for a short recess.

At 3:35 p.m., the meeting was again called to order by President Calhoun.

10. PORT OF LONG BEACH TARIFF NO. 4, ITEM NOS. 402 AND 404 – AMENDMENT FOR REDUCTION OF FREE TIME ALLOWED AND AMEND THE FREE TIME CALCULATION – RESOLUTION NO. HD-2260 - ADOPTED – FIRST READING OF ORDINANCE.

Communication from Donald B. Snyder, Director of Trade and Maritime Services, dated June 15, 2005, recommending approval of the amendments of Item Nos. 402 and 404 in the Port of Long Beach Tariff No. 4 for reduction of free time allowed and amend the free time calculation, was presented to the Board together with the authorizing resolution and ordinance therefore. The recommendation was approved by the Executive Director.

Mr. Snyder, Director of Trade and Maritime Services, gave an overview of the questions previously raised by the industry.

Mr. Hank Bruzza, Vice President of Lengner & Sons Express, asked the Board to decline the request to reduce free time and to base free time on when the container comes off the vessel and not when the vessel is completely discharged.

Mr. John DiBernardo, Vice President of SSA Terminals, stated he is in support of the reduction of free time and, with the introduction of PierPass, there will be doubling the availability of gate hours to pick up cargo. He stated SSA Terminals would also be opening their gates on Saturday day shift.

Mr. Paul Conolly, Director of Customer Service, OOCL (USA), Inc., urged the Board to make no exceptions to the proposed free time amendments. He stated this would improve the velocity through the ports and the terminals would be less congested.

Mr. Daniel Meylor, Los Angeles Customs & Freight Forwarders, stated he opposes the amendments as written and he suggested adding verbiage that states demurrage may be waived when there is a service failure, when the terminal or steamship line can't produce equipment, or something goes wrong with labor.

Ms. Staci Heaton, CTA, stated she is opposed to the reduction of free time and the biggest issue is with the extra free time offered, along with the accrual of when free time starts.

Ms. Patty Senecal, Transport Express, stated the California Port Authority, steamship lines, and marine terminals all benefit from anti-trust immunity and that the trucking industry is deregulated and has no anti-trust immunity, and this keeps the truckers at a disadvantage to the alliances with the Port, steamship lines, and marine terminals.

Mr. Jim Horvitz, Container Connections, stated he felt with the implementation of PierPass next month and with the reduction of free time, this could lead to chaos at the Ports. He felt the solution that could help would be terminal productivity and getting turn times for the drivers/truckers.

Mr. Rick Lorenzen, Price Transfer, stated he felt the congestion starts at the terminal and he supported the reduction of free time.

Mr. Miguel Lopez, stated he opposed the amendments to the reduction of free time and that there should be a transparent registry and public audits of the monies that are collected and held by the terminal operators from the free time. He stated the cargo should be put on wheels in staging areas prior to notification.

Ms. Michelle Grubbs, Vice President of Pacific Merchant Shipping Association, stated she is in support of the amendment and that the PMSA would work with the industry.

Ms. Kathy Gordon, Regional VP/General Manager, MOL, stated there is a misconception within the industry from what is allowed in the service contract for free time. She stated in the past MOL had given lots of free time and now they have cut way back, and their free time that is given is out the door. Ms. Gordon stated that the goal of MOL is to move cargo out of the terminals and that MOL has already filed their tariff with the FMC, effective July 15, with both the Port of Long Beach and Port of Los Angeles because MOL does not want to see their customers get a deal at one port and not the other.

Mr. Phillip Wright, VP/West Coast, ZIM, stated their needs to be a mechanism to address the service failures by the line and by the terminal operator and it should be between the partners and the users of the facilities, and not at the port level. Additionally, he stated it was a smart decision to reduce the free time to encourage the movement of the goods off the pier efficiently and put them where they most belong, on the shelves.

Commissioner Topsy-Elvord stated she was prepared to vote in favor of the free time only with an exception stating, for inbound containerized cargo on a federal regulatory manifest hold, free time shall commence upon the release of the hold on the containerized cargo.

Commissioner Hankla stated he felt the Port does not only have the ability to regulate, the Port has a duty to regulate. He stated the challenge for this Commission is to write a tariff that does provide for fair administration and auditing and he stated he felt it should include that if there is a willful avoidance of enforcing the tariff there needs to be meaningful penalties.

Commissioner Hancock stated the Port needs to continue to enhance the efficiency of this operation and the land resources that we have available to utilize. He stated he sees three primary issues, which are the reduction of free non-demurrage attracting storage from five days to four days, how we start the count, and then the issue of exceptions of availability. Commissioner Hancock stated his preference is to approve when the count starts, reducing the free time from five to four days, with the effective date to be determined, and to instruct staff to look at the availability exception option for consideration at a future date.

Commissioner Cordero stated time is of the essence to move the containers in and out and that the California Association of Port Authorities and the Port of Los Angeles have already addressed this issue and he feels we need to move forward in line.

Commissioner Hankla stated he felt it is our duty under the Tidelands Act to audit, and if there is a violation that is discovered by an audit, the penalty should be more than twice the demurrage, plus \$100, and the cost of the audit should be recovered.

President Calhoun stated he felt the computation should be on a 24-hour basis, rather than a calendar day basis, that the time should only be counted when the container is actually available, create exceptions for not only the manifest holds but for any situation that is outside the control of the shipper and trucking companies, and all over time boxes should be physically reported to the Port of Long Beach. In addition, the demurrage should be collected and auditable, with severe penalties for anybody who tries to manipulate, falsify, or not perform those functions and if needed, a dispute resolution procedure performed by the Port of Long Beach.

In response to a question by Commissioner Topsy-Elvord, Mr. Steinke stated there are provisions in the tariff and in the preferential assignment agreements that authorizes the Port of Long Beach to audit the books and accounts, and we have engaged the City Auditor to do revenue audits on the seven container terminals.

Commissioner Hancock moved, seconded by Commissioner Cordero that the communication be received and filed; with an exception for inbound containerized cargo on a federal regulatory manifest hold, free time shall be reduced from five days to four, and shall commence upon the release of the hold on the containerized cargo from the federal regulatory manifest hold, reserve the right to audit this information and/or to request reporting information from the terminal operators, and that the resolution entitled, "A RESOLUTION OF THE BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LONG BEACH AMENDING ORDINANCE NO. HD-1357, DESIGNATED TARIFF NO. 4, BY AMENDING ITEM NOS. 402 AND 404 FOR A PERIOD OF NINETY DAYS COMMENCING JULY 1, 2005," be declared read and adopted as read. Carried by the following vote:

AYES:	Commrs:	Hancock,Cordero,Hankla,Topsy-Elvord
NOES:	"	Calhoun
ABSENT:	"	None

Commissioner Hancock moved, seconded by Commissioner Topsy-Elvord that the ordinance entitled, "AN ORDINANCE OF THE BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LONG BEACH AMENDING ORDINANCE NO. HD-1357, DESIGNATED TARIFF NO. 4, BY AMENDING ITEM NOS. 402 AND 404," be declared read for the first time and laid over for its second and final reading. Carried by the following vote:

AYES:	Commrs:	Hancock,Cordero,Hankla,Topsy-Elvord
NOES:	"	Calhoun
ABSENT:	"	None

CLOSED SESSION.

Commissioner Topsy-Elvord moved, seconded by Commissioner Hancock that the closed session be laid over. Carried by the following vote:

AYES:	Commrs:	Hancock,Cordero,Hankla,Topsy-Elvord, Calhoun
NOES:	"	None
ABSENT:	"	None

ANNOUNCEMENTS.

Mr. Hein announced that the election of officers for 2005-2006, would be held at the next meeting.

ADJOURNED.

At 5:25 p.m., Commissioner Hancock moved, seconded by Commissioner Hankla that the meeting be adjourned sine die. Carried by the following vote:

AYES:	Commrs:	Hancock,Cordero,Hankla,Topsy-Elvord, Calhoun
NOES:	"	None
ABSENT:	"	None